

Notice of Allowability

Application No.

09/837,562

Examiner

Traviss C. McIntosh

Applicant(s)

MCCLEARY, EDWARD LARRY

Art Unit

1623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed 3/16/2005.
2. ☒ The allowed claim(s) is/are 1,53,54,69 and 70.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Carl Forest on may 26, 2005.

The application has been amended as follows:

Claims 2-52, 55, and 59-64 are canceled.

Claim 1 (currently amended):

A composition for treating impaired neurological function or treating deteriorating neurological function in the body of a human, or for promoting neurological health or maintaining neurological health in the body of a human, said composition comprising effective amounts of:

(A) at least one agent which promotes synthesis of ATP and/or creatine phosphate in the body, wherein said (A) agent is selected from the group consisting of creatine monohydrate, alpha lipoic acid, and trimethylglycine;

Art Unit: 1623

(B) at least one antioxidant for scavenging free radicals in at least one pathway in the body, wherein said (B) agent is selected from the group consisting of taurine, ginko biloba, lycopene, acetyl L-carnitine, vinpocetine, alpha lipoic acid, coenzyme Q10, and resveratrol;

(C) at least one agent for treating or maintaining membrane function and structure in the body, wherein said (C) agent is selected from the group consisting of inositol and choline;

(D) at least one agent for treating or maintaining normal neurotransmitter function in the body, wherein said (D) agent is selected from the group consisting of DMAE and choline;

(E) at least one agent for down-regulating cortisol action, said (E) agent comprising pyrodoxine; and,

(F) at least one agent for suppressing activation of apoptotic pathways in the body, said (F) agent comprising huperzine;

wherein said (A), (B), (C), (D), (E), and (F) agents are present in said composition in effective amounts for treating impaired neurological function or treating deteriorating neurological function in the body of a human, or for promoting neurological health or maintaining neurological health in the body of a human.

The following is an examiner's statement of reasons for allowance: the prior art is not seen to teach or fairly suggest a composition comprising the specific agents listed in A-F of claim 1. The prior art is not seen to motivate one of skill in the art to combine the specific agents of groups A-F of claim 1 and make a composition.

Art Unit: 1623

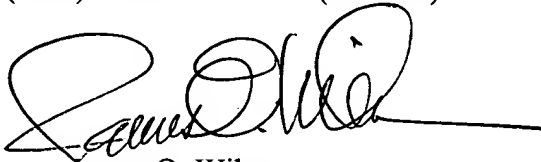
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Traviss C. McIntosh whose telephone number is 571-272-0657. The examiner can normally be reached on M-F 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James O. Wilson can be reached on 571-272-0661. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Traviss C. McIntosh III
May 26, 2005



James O. Wilson
Art Unit 1623
Supervisory Patent Examiner